



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on January 10, 2022 (the "Application"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- a monetary order for damage or compensation.

The Tenant, the Tenant's Advocate, and the Landlord attended the hearing at the appointed date and time and provided affirmed testimony. At the start of the hearing, the parties confirmed service and receipt of their respective Application and documentary evidence packages. As there were no issues raised, I find the above mentioned documents were sufficiently served pursuant to Section 71 of the *Act*.

The Parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

1. Is the Tenant entitled to a monetary order for damage or compensation, pursuant to Section 67 of the *Act*?

Background and Evidence

The parties agreed to the following; the tenancy began on November 1, 2019. Currently, the Tenant is required to pay rent in the amount of \$1,160.00 to the Landlord which includes utilities, and is due on the first day of each month. The Tenant paid a security deposit in the amount of \$500.00 which the Landlord continues to hold.

The Tenant had originally claimed for compensation in the amount of \$2,820.00. The Tenant's advocate requested to reduce the Tenant's claim to \$910.00 for over payment

of rent. The Tenant's advocate referred to rent receipts from January 2021 to November 2021, which the Tenant provided in their documentary evidence. The Tenant's Advocate stated that if I were to add the rent receipt amounts up, it equals \$13,670.00 instead of \$12,760.00. As such, the Tenant is of the impression that she has overpaid the Landlord \$910.00 in rent during 2021.

When asked which month(s) the Tenant overpaid her rent, the Tenant's Advocate referred to page 9 of the Tenant's evidence which contains two receipts. One dated October 24, 2021 and November 1, 2021 both in the amount of \$1,160.00. The Tenant's Advocate stated that the Tenant double paid rent for November 2021. The Tenant was unable to explain why she was claiming for \$910.00 rather than the apparent over payment of November rent in the amount of \$1,160.00.

The Landlord stated that the Tenant's receipt dated October 24, 2021 had been altered and that it was a receipt he had provided the Tenant on October 24, 2020. The Landlord referred to the carbon copy of the original receipt, which was provided in the Landlord's documentary evidence. It shows that someone changed the 2020 to read 2021. The Landlord stated that the receipt produced by the Tenant is not valid.

The Tenant responded by stating that the Landlord had written October 24, 2020 rather than 2021 and that he changed the date only on her copy of the receipt. The Landlord denied having changed the date.

Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

In relation to the monetary compensation sought by the Tenant, Section 67 of the *Act* empowers me to order one party to pay compensation to the other if damage or loss results from a party not complying with the *Act*, regulations or a tenancy agreement.

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided for in sections 7 and 67 of the *Act*. Pursuant to Residential Tenancy Policy Guideline #16 an applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and
4. That the party making the application did what was reasonable to minimize the damage or loss.

In this case, the burden of proof is on the Tenant to prove the existence of the damage or loss, and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Landlord. Once that has been established, the Tenant must then provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Tenant did what was reasonable to minimize the damage or losses that were incurred.

I find that the Tenant has provided insufficient evidence to show what amount, if any, was overpaid to the Landlord during the tenancy. I find that the Tenant provided a rent receipt which had clearly been altered to read October 24, 2021 rather than October 24, 2020. I do not accept the Tenant's explanation relating to the Landlord having changed the date on her copy and not his. Therefore, I dismiss the Tenant's Application without leave to reapply.

Conclusion

I dismiss the Tenant's Application for compensation relating to an overpayment of rent without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: April 07, 2022

Residential Tenancy Branch